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IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

PEOPLE OF THE STATE OF ILLINOIS,
Petitioner,

vs.

TIMOTHY CONDON,
Respondent.

On Petition For Writ Of Certiorari To The Supreme Court Of Illinois

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether a compliance with the knock and announce rule in the execution of a search or arrest warrant is required for the search to meet standards of constitutional reasonableness under the Fourth Amendment to the United States Constitution and under the protections of Article I, Section 6 of the Constitution of the State of Illinois.

2. If compliance with the knock and announce rule is required by the Fourth Amendment to the United States Constitution and Article I, Section 6 of the Constitution of the State of Illinois, whether the facts of the case at bar reflect exigent circumstances which excuse the knock and announce rule and allow forceful entry into the home.

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Respondent, Timothy Condon, respectfully requests this Court to deny a Writ of Certiorari to review the judgment of the Supreme Court of Illinois.

OPINION BELOW

The statement of the Petitioner is accurate.

JURISDICTION OF THE COURT

Petitioner invokes the jurisdiction of this court under 28 U.S.C. §1257(3). The respondent has alleged a violation of his rights under Article I, Section 6 of the Constitution of the State of Illinois as well as his rights under the Constitution of the United States.

CONSTITUTIONAL PROVISIONS INVOLVED

In addition to the constitutional provisions cited by the petitioner, the respondent cites as follows. The Constitution of the State of Illinois, Article I, Section 6 provides that:

> The people shall have the right to be secure in their persons, houses, papers, and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means. No warrant shall issue without probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized.

STATEMENT OF THE CASE

The Respondent adopts the STATEMENT OF THE CASE of the Petitioner with the following supplement.

Prior to executing the search warrant, the police attended a meeting at headquarters to discuss the impending search. Commander Wachtel ordered the members of the search team to use an assault-type entry into the home (C. 721). The State submitted no evidence at the hearing on the motion to suppress.

Mr. Condon testified for the defense and stated that the video cameras located at the two entrances to the home were not functioning (C. 610). The scanner which was located in the house was not turned on (C. 610). The police smashed down the front door with a battering ram without announcing or knocking. They ordered all of the occupants of the home who were seated at the dinner table for the evening meal to lie face down on the floor (C. 609). After placing all of the occupants under arrest, the police

ran up to the second floor of the home and smashed down the door to Bernard Condon's office, even though the key was available (C. 1316, 1317). Approximately 12 SWAT team officers ran into the home after the doors were smashed, all were armed, many with rifles and shotguns. All of the ten shotguns and rifles found in the home were unloaded hunting weapons (C. 874, 877). Timothy Condon had a valid State Fireowner's Identification Card on his person at the time of the arrest (C. 877).

The affidavit for the search warrant relied upon the alleged statements of a Mr. Robert Trenton. It was established at the hearing on the motion to suppress that the name, Mr. Robert Trenton, was false and fictitious and that no such person existed nor ever appeared before the magistrate (C. 249, 280, 596, 598). Defense counsel made an offer of proof at the hearing, indicating that he had interviewed the judge who issued the search warrant and that he was never told that Robert Trenton was a nonexistent person or the secret identity of another person (C. 578). Defense counsel in his presentation at the hearing on the motion to suppress relied upon the breach of the defendant's rights to privacy and against unreasonable searches and seizures under Article I, Section 6 of the Constitution of the State of Illinois as well as the Fourth Amendment to the United States Constitution (C. 623, 624).

REASONS FOR DENYING THE WRIT

I.

THE SUPREME COURT OF THE STATE OF ILLINOIS BASED ITS RULING ON RIGHT TO PRIVACY AND SEARCH AND SEIZURES ISSUES PROTECTED BY ARTICLE I, SECTION 6 OF THE CONSTITUTION OF THE STATE OF ILLINOIS. THE KNOCK AND ANNOUNCE RULE SHOULD BE VIEWED AS A CONSTITUTIONAL REQUIREMENT IN ASSESSING THE REASONABLENESS OF A SEARCH CONDUCTED PURSUANT TO A SEARCH WARRANT UNDER EITHER THE UNITED STATES CONSTITUTION OR THE CONSTITUTION OF THE STATE OF ILLINOIS.

In ruling for the defendant in the case at bar, the Supreme Court of the State of Illinois carefully considered the violation of the defendant's right to privacy and unreasonable searches and seizures in the conduct of the law enforcement officials. The court carefully considered the unannounced and violent entry by the police by smashing down the front door of the home with a battering ram in order to execute the warrant. The court also took into consideration that the decision to batter down the door was made by the police commander a substantial time before the search was executed when he told the police to execute an assault-type entry into the home. The defendant and others were about to partake of dinner at the time that this violent entry took place. The court in *Condon*, 148 Ill.2d 96, 592 N.E.2d 951 (1992) clearly stated the linchpin of the knock and announce rule, "the purpose of the knock and announce rule is to notify the person inside of the presence of police and of the impending intrusion, give that person time to respond, avoid violence, and protect privacy as much as possible." *People v. Ouellette*, 78 Ill.2d 511, 401 N.E.2d 507 (1979).

The Supreme Court focused directly on the violation of the defendant's right to privacy as well as search and seizure considerations which are forcefully protected under Article I, Section 6 of the Constitution of the State of Illinois. In relation to the Supreme Court's general attitude on the protections to privacy, one must look to the recent cases of the Supreme Court of the State of Illinois to find guidance. The case of *In Re May, 1991 Will County Grand Jury*, ___ Ill.2d ___ (No. 72421, 1992), the Supreme Court clearly stated the expansive construction it gives to the privacy protection in Article I, Section 6 of the Constitution. The court went on to delineate that the protections of Article I, Section 6 of the Constitution as stated by the Supreme Court are much greater than the protections afforded the citizen under the Fourth Amendment to the United States Constitution. The court in recognizing that stated, "However, a State's Constitutional protection may be greater than that of the comparable United States Constitutional provision. (*People v. Jackson*, 116 Ill.App.3d 430 (1983); *Cooper v. California*, 386 U.S. 58, 17 L.Ed.2d 730, 87 S.Ct. 788 (1967). Appellant's assert that the Illinois Constitution offers greater protection against the invasion of an individual's privacy rights than does the federal Constitution. *We agree.*"

The court could not have been more direct and more clear in its interpretation of the Illinois Constitution. The court went on to state in *Will*, "It is probably inevitable that infringements on individual privacy will in rease as our society becomes more complex, and as technological developments offer additions or more effective means by which privacy can be invaded. In the face of these conditions, the committee concluded that it was essential to the dignity and well being of the individual that every person be guaranteed a zone of privacy. (Ill.Ann.Stat.,

1970 Const., Art. I, Sec. 6 Constitutional Commentary at 317-18 Smith-Hurd 1971)."

In recognizing this continuing protection on the citizens of the State, the court defined this right of privacy further and in a manner that is aptly responsive to the facts in the case at bar, when the court stated, "Thus, the Illinois Constitution goes beyond federal constitutional guarantees by expressly recognizing a zone of personal privacy. The protection of that privacy is stated broadly and without restrictions."

The most personal and protected zone of personal privacy is the home. *See Payton v. New York*, 445 U.S. 573, 100 S.Ct. 1371, 63 L.Ed.2d 639 (1980); *People v. Ouellette*, 78 Ill.2d 511, 401 N.E.2d 507 (1979). The court stated in *Payton v. New York, supra*, "The Fourth Amendment protects the individual's privacy in a variety of settings. In none is the zone of privacy more clearly defined then when bounded by the unambiguous physical dimensions of an individual's home—a zone that finds its roots in clear and specific constitutional terms: 'the right of the people to be secure . . . houses . . . shall not be violated.' That language unequivocally establishes the proposition that 'at the very core of the Fourth Amendment stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.' *Citing Silverman v. United States*, 365 U.S. 505, 511, 81 S.Ct. 679, 683, 5 L.Ed.2d 734 (1961). In terms that apply equally to seizures of property and to seizures of persons, the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant."

The Illinois Supreme Court was surely making reference to that specific zone of privacy when it indicated that the

knock and announce rule has certain specific functions in notifying persons about impending intrusions and allowing those persons to take appropriate steps to avoid violence consistent with protection of their zone of personal privacy. The court relied upon the defendant Condon's right to privacy under Article I, Section 6 of the Constitution of the State of Illinois in rendering its opinion in the above-stated case giving a broader application of protection to the privacy rights of the individual than is found in the Fourth Amendment to the United States Constitution.

Assuming arguendo, that the Supreme Court of the State of Illinois relied upon its interpretation of the Fourth Amendment to the United States Constitution in holding for the defendant, the defendant's rights against unreasonable searches and seizures and his right to privacy under the Fourth Amendment would protect him against the violent entry occasioned by the police. The outrageous assault-type entrance to the defendant's home was occasioned totally without exigent circumstances and based solely upon the orders of the commanding police officers some hours before the execution of the warrant. The mandate to knock and announce at the time of the execution of a warrant is a concept that goes back 400 years to *In Semayne's Case*, 5 Co. Rep. 91a, 11 E.R.C. 629, 77 Eng. Repr. 194 (1603). The court in confronting the identical issue before this court stated, "In all cases where the King is party, the Sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K.'s process, if otherwise he cannot enter. *But before he breaks in, he ought to signify the cause of this coming, and to make requests to open the doors . . .*"

The statement in *Semayne's Case* is totally reasonable and civilized and is the predicate for the constitutional protections found in the Fourth Amendment to the United States Constitution and in Article I, Section 6 of the Constitution of the State of Illinois. Recognizing the reasonableness of this issue, Congress passed Title 21 U.S.C. §3109 which is a codification of the constitutional protections found in the Fourth Amendment and reads as follows: "The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein to execute a search warrant *if, after notice of his authority and purpose, he is refused admittance* or when necessary to liberate himself or a person aiding him in the execution of the warrant.

The legislature in passing the statute clearly identified the reasonableness of a knock and announce requirement before the use of violence in order to comport with constitutional standards.

2 W. LaFave, Search and Seizure, §4.8(a) (2d ed., 1987), recognizes the important purpose of Title 21 §3109 and specifically outlined the reasons for the statute those being: "(1) preserving the individual's right to be free from unexpected, frightening, and embarrassing intrusions into the privacy of his home; (2) avoiding the unnecessary violence which frequently accompanies unannounced invasions of private dwellings by alerting the resident that the officer is lawfully on the premises; and (3) preventing the physical destruction of the resident's home by giving the resident the opportunity to admit the officer voluntarily." Nothing could be more reasonable or clear in relation to explaining the solid reasons for the knock and announce rule.

In *Miller v. United States*, 357 U.S. 301, 306-310, 78 S.Ct. 1190, 2 L.Ed.2d 1332 (1958), the Supreme Court spoke to the knock and announce issue. The trial court had refused to suppress contraband following a forceful entry by police officers who had in fact announced their office by stating "police", but had failed to state the purpose of their being at the location. In reversing the case, Justice Brennan wrote, "Congress, codifying a tradition embedded in Anglo-American law, has declared in §3109 the reverence of the law for the individual's right of privacy in his house. Every householder, the good and the bad, the guilty and the innocent, is entitled to the protection designed to secure the common interest against unlawful invasion of the house."

Clearly Justice Brennan was speaking in terms of constitutional standards which were specifically spelled out in Title 21 §3109. The court went on to state in *Miller, supra*, that the right to privacy and protections which should be afforded the occupant against violent police contact has become so "deeply rooted in our heritage" that it "should not be given grudging application".

In *Wong Sun v. United States*, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 1332 (1963), in reflecting on its holding in *Miller*, the court stated that the knock and announce requirement in the execution of search warrants was developed "in order to make effective the fundamental constitutional guarantees of sanctity of the home and inviolability of the person." at 484. The Supreme Court again spoke to the knock and announce rule in *Ker v. California*, 374 U.S. 23, 83 S.Ct. 1623, 10 L.Ed.2d 726 (1963). In *Ker*, eight justices of the Supreme Court agreed that a police officer's failure to knock and announce is a violation of the Fourth Amendment. In *Ker*, the court did recognize

the possibility of exigent circumstances which might excuse the requirement of knock and announce depending as to the circumstances confronting the police *at the time of the search*. Four justices in *Ker* found that the facts would not justify an unannounced entry while four other justices led by Justice Clark found that the entry was permissible in *Ker* based on exigent circumstances. Again, those circumstances which justify the exception must confront the police immediately prior to the search. Justice Brennan outlined the exceptions to the knock and announce rule in *Ker* when he stated: "The Fourth Amendment is violated by an unannounced police intrusion into a private home, with or without an arrest warrant, except (1) where the persons within already know of the officers' authority and purpose or, (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm or, (3) where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence *is being attempted*."

It is clear that the guidelines established by Justice Brennan relate to facts which are apparent at the time of the search and are not merely speculative occurrences.

In *Sabbath v. United States*, 391 U.S. 585, 88 S.Ct. 1755, 20 L.Ed.2d 828, the court again broached the knock and announce issue. In *Sabbath*, the court held that the unforceful entry into the defendant's home and subsequent acquisition of contraband was illegal notwithstanding the lack of force utilized in the entry. The case skirts the constitutional issue and settles on the interpretation of Title 21 U.S.C. §3109.

No knock warrants were authorized by the comprehensive drug abuse prevention and control act Pub.L.No. 91-513, §509(b), 84 Stat. 1236, 1274 (1970) repealed in 1974. Said act authorized no knock warrants when an issuing magistrate found probable cause that knocking and announcing would endanger the safety of the executing officer or notice might allow suspects to destroy evidence. Four years of this statute were all that a decent society could handle. The abuses by law enforcement officials were legion. Senator Sam Ervin, in speaking against the statute, stated, "I would emphasize, above all things, that the amendment says that no warrants shall issue, but upon probable cause. Probable cause necessarily relates to facts existing at the time the search warrant is applied for. But these "no knock" provisions, which my amendment seeks to strike, are based entirely upon facts which the official prophecies are going to exist at the time he undertakes to execute the search warrant, and not upon facts known to the applying officer at the time he seeks to obtain the search warrant. Ironically, the Supreme Court has never considered the constitutionality of either of these "no knock statutes". However, I am confident that it would strike down any warrant based upon the prophecy of a law enforcement officer. It has already held in the case of *Nathanson v. United States*, 290 U.S. 41 (1933), that mere suspicion is not sufficient to constitute probable cause for the issuance of a search warrant." 120 Cong. Rec. 22,884 (1974).

During the four-year period where the "no knock" warrants were issued, horror stories were abundant. A terror-stricken woman in Virginia, who was a previous burglary victim, shot and killed a young police officer executing a no knock warrant as he burst into her bedroom in the middle of the night. In another incident, of many reported,

a California father was shot through the head as he sat in his living room cradling his infant son. Both of the above persons were totally innocent of any wrongdoing. *See* 120 Cong. Rec. 22,886-88 (1974); 116 Cong. Rec. 24,739-44; 25,199-25,212; 33,639-67; 35,523-39 (1970); 119 Cong. Rec. 15,170-76; 23,242-58 (1973); 120 Cong. Rec. 22,881-22,907; 26,874; 34,445-46; 35,641-42 (1974).

The Congressional Record described hundreds of cases similar to the above.

II.

THE EVIDENCE INTRODUCED BY THE STATE AT THE HEARING ON THE MOTION TO SUPPRESS EVIDENCE, OR THE LACK THEREOF, TOTALLY FAILED TO DEMONSTRATE EXIGENT CIRCUMSTANCES WHICH WOULD EXCUSE THE FAILURE OF THE EXECUTING OFFICERS TO ANNOUNCE THEIR PRESENCE AND PURPOSE PRIOR TO FORCIBLY ENTERING THE RESIDENCE.

The police executing the warrant were ordered by their commander to smash down the outer doors of the house and use an assault-type entrance hours before executing the warrant.

The complaint for the search warrant could not, and did not, demonstrate exigent circumstances as the facts related to occurrences which took place up to two years before the execution of the warrant. The complaint stated that Bernard Condon had been arrested two years before and charged with possession of a controlled substance and was in possession of a handgun. Bernard Condon had not been tried on that offense at the time of the execution of the warrant and there was no evidence that he attempted to utilize the gun in question. The complaint for the warrant indicated that there were video cameras outside the front and rear doors of the premises and a police scanner in the house. The uncontradicted testimony at the hearing on the motion to suppress was the video cameras were not functioning and the scanner was turned off. Another person that had been in the home some six months before stated that there were weapons in the home but there was no evidence indicating what kind of weapons, were they bow and arrows, spears, or guns, and if guns, were they loaded and did anyone have a proclivity to utilize the weapons. There was no testimony that anyone in the house was of a violent character. Besides being stale-dated information, there was absolutely nothing to support evidence that, at the time of the execution of the warrant, there were exigent circumstances which required immediate action consistent with a no-knock performance. It must be remembered that there was no opportunity to exit the home by anyone in the home as there were over a dozen SWAT team members at the front and back doors. The mere fact that drugs was the subject issue of the warrant cannot be utilized as a predicate to abandon the knock and announce principles in the case at bar.

There was substantial conflicting testimony by the law enforcement officials which is characteristic of a motion to suppress relating to knock and announce. Officer Michael Casey first testified that the police did knock and announce before entering (C. 715). On cross examination, however, Casey first equivocated and then changed his testimony that he might be mistaken about knocking and announcing (C. 723). Officer Sullivan admitted that the officers merely rushed the front door and smashed it in without knocking or announcing (C. 862). Sullivan then denied having smashed down the office door on the second floor of the home after gaining entrance and after everyone in the home was under arrest (C. 867). Agent Dvorak,

however, admitted on cross examination that in fact he and Sullivan had smashed the office door gaining access to Bernard Condon's office (C. 870-874).

The Supreme Court has held that in order to justify exigent circumstances in disregarding the knock and announce rule, the facts in which the law enforcement officials move must be founded on particular circumstances and not on generalities such as the type of contraband being searched for. *See Miller v. United States*, 357 U.S. 301, 78 S.Ct. 1190, 2 L.Ed.2d 1332 (1958); *Ker v. California*, 374 U.S. 23, 83 S.Ct. 1623, 10 L.Ed.2d 726 (1963). Clearly in the case at bar no particular circumstances were delineated for the court which would assist in giving grounds for abandoning the knock and announce rule.

In *United States v. Likas*, 448 F.2d 607 (7th Cir. 1971), the court suppressed contraband acquired in the execution of a search warrant. At the time of the acquisition of the warrant, police officers alleged that the defendant was engaged in gambling activities and had in his possession "flash paper" which was highly flammable and could quickly be destroyed. The law enforcement officials executed the warrant without knocking or announcing. They broke down the door to the apartment with a sledge hammer, proceeded in and searched the premises. The court, in suppressing the evidence, indicated there were no exigent circumstances to justify the law enforcement officials acting in the way they did. The defendant did not refuse to admit the officers, in truth and in fact he was not given the opportunity to do so, and the court held that the *possible destruction* of evidence in a situation of this nature is insufficient to justify a forceful entry without knock and announce.

In *Miller v. United States*, 357 U.S. 301, 78 S.Ct. 1190, 2 L.Ed.2d 1332 (1958), the Supreme Court recognized the

use of exigent circumstances only in those instances where it can truly and effectively be demonstrated that a recognized exigency exists. The court stated, "The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application. Congress, codifying a tradition embedded in Anglo-American law, has declared in §3109 the reverence of the law for the individual's right of privacy in his house. Every householder, the good and the bad, the guilty and the innocent, is entitled to the protection designed to secure the common interest against unlawful invasion of the house. The petitioner could not be lawfully arrested in his home by officers breaking in without first giving him notice of his authority and purpose. Because the petitioner did not receive that notice before the officers broke the door to invade his home, the arrest was unlawful and the evidence seized should have been suppressed." (*Id.* 313-314).

It also must be remembered that the Supreme Court in *Ker v. California*, 374 U.S. 23, 47, 83 S.Ct. 1623, 1636, 10 L.Ed.2d 726, 746, defined what exigent circumstances are. They carefully stated: "(1) where the persons within already know of the officers authority and purpose or, (2) where the officers are justified in the belief that persons within are in peril of bodily harm or, (3) where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence *is being attempted.*" In the case at bar, the defendant and the others in the home clearly did not know the police officers were outside and prepared to smash the doors down. The officers certainly had no probable cause to believe that the persons inside the home were in imminent

peril of bodily harm. The officers certainly had not been made aware of information which would indicate that the occupants of the home knew they were outside and were engaged in activity which justified the police officers in believing that an escape or the destruction of evidence was being attempted. The evidence is very clear the officers were told to smash the doors down hours beforehand and without any basis in fact for so believing as there was no evidence adduced by the State at the motion to suppress.

Professor LaFave, Search and Seizure Vol. II, §4.8, pgs. 124-138, addressed the same definition of exigent circumstances, "Although it has been argued that the protections flowing from the notice requirement are somewhat tenuous, this is hardly the case. The constitutional requirement of announcement serves a number of most worthwhile purposes: (1) decreasing the potential for violence; (2) protection of privacy; (3) preventing the physical destruction of property." Clearly the actions of police in the case at bar exacerbated the potential for violence; violated every concept of the privacy rights of the defendant; and made certain that the maximum destruction to the defendant's property was occasioned.

Exigent circumstances cannot be justified in the case at bar merely because narcotics are the subject of the search. *People v. Ouellette*, 78 Ill.2d 511, 401 N.E.2d 507 (1979); *People v. Gastelo*, 67 Cal.2d 586, 432 Pac.2d 706 (1967).

The Illinois legislature, on January 1, 1992, passed Chp. 338, §108-8, Ill.Rev.Stat. 1992 which attempts to codify a knock and announce rule and exigent circumstances relating thereto. The statute was obviously drafted in answer to the Supreme Court's interpretation found in *People v. Condon* granting substantial privacy rights to the

citizen pursuant to Article I, Section 6 of the Constitution. The statute reads as follows: "Section 108-8. Use of Force in Execution of Search Warrant. (b) upon a finding by a judge issuing the warrant that any of the following exigent circumstances exist, the judge may order the person executing the warrant make entry without first knocking and announcing his office: (1) the presence of firearms or explosives in the building where they are accessible to any occupant; (2) the prior possession of firearms by an occupant of the building within a reasonable period time; (3) the presence of surveillance equipment, such as video cameras, or alarm systems, inside or outside the building; (4) the presence of steel doors, wooden planking, cross bards, dogs, or other similar means of preventing or impeding entry into the building."

The statute is of questionable constitutional validity. It attempts to define exigent circumstances as something that might happen in the future that we are going to guess about in the present.

The warrant in the case at bar could never pass muster under this questionable statute. No request was made in the search warrant for a no-knock and announce execution. Exigent circumstances deals with urgent material confronting a law enforcement official at the scene of the execution of a warrant and not guess work of what might happen in the future. Firearms and the possession thereof in the State of Illinois is legal and was legal at the time that the warrant was issued in the case at bar. The video equipment at the defendant's home was not operating on the evening in question. The law enforcement agencies and fire departments in every major city of the United States encourage homeowners to have burglary detection and fire detection equipment in our homes and commercial buildings. The warrant in the case at bar would not

measure up to a no-knock warrant under the new statute. Clearly, no exigent circumstances existed that would permit law enforcement officials from smashing down the exterior and interior doors of the defendant's home.

CONCLUSION

The respondent, Timothy Condon, requests this Honorable Court to enter an order denying petitioner's request that a Writ of Certiorari issue to review the decision of the Supreme Court of the State of Illinois. The respondent further requests this Honorable Court to affirm the decision of the Supreme Court of the State of Illinois should this court deem it appropriate to grant a Writ of Certiorari. In the alternative, the respondent would request this court to remand this cause back to the Supreme Court of the State of Illinois for clarification as to whether that court arrived at its decision through its interpretation of, and applying the protections of, Article I, Section 6 of the Constitution of the State of Illinois and the Fourth Amendment to the United States Constitution.

Respectfully submitted,

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